

## **REMARKS**

### **Status of the Claims**

Claims 1-10 and 12-18 are currently pending in the application. Claims 1-3, 5-7 and 9-12 stand rejected. The Examiner objects to claims 4 and 8. Claims 1 and 3 have been amended. Claim 11 has been cancelled. All amendments and cancellations are made without prejudice or disclaimer. New claims 13-18 are added. No new matter has been added by way of the present amendments. Specifically, the amendment to claim 1 is to remove the terms nitro, -C(=S)-N(A')A, and -C(=NA')-SA from the definition of "L" and the term C(=S)-NR<sup>a</sup>R<sup>b</sup> from the definition of R<sup>3</sup>. Claim 3 is similarly amended to remove the term C(=S)-NR<sup>a</sup>R<sup>b</sup> from the definition of R<sup>3</sup>. New claims 13 and 16 are supported by at least original claim 1 and the specification at page 1, lines 13-17, and page 2, lines 20-26. New claims 14, 15, 17 and 18 are supported by the specification at, for instance, original claims 7 and 8, and page 3, lines 16-18, page 53, lines 3-7 and page 54, lines 20-24. Reconsideration is respectfully requested.

### **Rejections Under 35 U.S.C. § 103(a)**

Claims 1-3, 5-7 and 9-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable as obvious over Dow, U.S. Patent Application Publication No. 2004/0259887 (hereinafter, "Dow"). (See, Office Action of April 2, 2008, at page 2, hereinafter, "Office Action"). Claim 11 has been cancelled, thereby obviating the rejection of claim 11. Applicants traverse the rejection as to the remaining claims.

The Examiner states that although Applicants have submitted a verified English language translation of the priority document DE 10315735.2 to antedate the disclosure of Dow, the

priority document does not disclose the terms nitro,  $-C(=S)-N(A')A$ , and  $-C(=NA')-SA$  from the definition of "L" and the term  $C(=S)-NR^aR^b$  from the definition of  $R^3$ . Thus, the Examiner concludes that the priority document fails to antedate the disclosure of Dow.

Applicants have herein amended claim 1 to remove the terms in the definitions of L and  $R^3$  indicated by the Examiner as not being supported by the priority document. Applicants believe that the disclosure of the priority document DE 10315735.2 supports the subject matter of claim 1 and all claims depending therefrom.

In addition, Applicants wish to point out that new claims 13 and 16 recite these cancelled terms in the definitions of L and  $R^3$  of the presently claimed compositions and methods, and that Dow does not disclose or suggest the compounds recited in these new claims. Thus, Dow cannot provide sufficient support to establish a *prima facie* case of obviousness with respect to new claims 13-18.

Therefore, reconsideration and withdrawal of the obviousness rejection of claims 1-3, 5-7, 9, 10 and 12 are respectfully requested.

#### **Rejections Under 35 U.S.C. § 112, Second Paragraph**

Claim 3 stands rejected under 35 U.S.C. § 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. (*See*, Office Action, at pages 2-3). Applicants traverse the rejection.

The Examiner states that claim 3 lacks antecedent basis for the term " $C(S=)NR^aR^b$ ." This term has been cancelled from claim 3, thereby obviating the rejection.

Reconsideration and withdrawal of the indefiniteness rejection of claim 3 are respectfully requested.

### **Objections to the Claims**

The Examiner states that should claim 10 be found allowable, claim 11 would be objectionable under 37 C.F.R. § 1.75 as being a substantial duplicate thereof. (*Id.* at page 3). Applicants have herein cancelled claim 11 without prejudice or disclaimer, thus obviating any possible objection thereto.

The Examiner also objects to claims 4 and 8 as being dependent on a rejected base claim. The Examiner states that these claims would be otherwise allowable if rewritten in independent form, including all the limitations of the claims from which they depend and any intervening claims. However, as noted above, Applicants believe that in light of the amendments to the claims discussed above, all of claims 1-10 and 12-18 are allowable.

Therefore, reconsideration and withdrawal of the objection to claims 4 and 8 are respectfully requested.

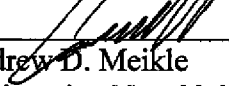
### CONCLUSION

If the Examiner has any questions or comments, please contact Thomas J. Siepmann, Ph.D., Registration No 57,374, at the offices of Birch, Stewart, Kolasch & Birch, LLP.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

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Respectfully submitted,

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